

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Tower Properties of Florida Inc.)	
Owner of Antenna Structure Registration #1029137 in)	File Number EB-02-TP-329
Gainesville, Florida)	
Gainesville, Florida)	NAL/Acct. No.200232700024
)	FRN: 0006154140
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: September 20, 2002

By the Enforcement Bureau, Tampa Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture*, we find that Tower Properties of Florida Inc. (“Tower Properties”), owner of antenna structure #1029137 in Gainesville, Florida, willfully and repeatedly violated Section 17.50 of the Commission's Rules¹ by failing to maintain good visibility of the required antenna structure obstruction marking. We conclude that Tower Properties of Florida Inc. is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. Antenna structure #1029137 is located in Gainesville, Florida. Tower Properties is the registered owner of this structure. The structure’s Antenna Structure Registration (“ASR”) specifies that the structure shall be painted.

3. On June 4, 2002, an agent from the Commission’s Tampa Field Office (“Tampa Office”) inspected Tower Properties’ antenna structure #1029137 in Gainesville, Florida. The agent observed that unpainted cables attached to the structure obstructed the visibility of the antenna structure paint.

4. On July 1, 2002, two agents from the Tampa Office inspected Tower Properties’ antenna structure #1029137 in Gainesville, Florida and observed that unpainted cables attached to the structure obstructed the visibility of the antenna structure paint.

III. DISCUSSION

¹ 47 C.F.R § 17.50.

5. Section 17.50 of the Rules states that antenna structures requiring painting shall be cleaned or repainted as often as necessary to maintain good visibility. The antenna structure owner is responsible for maintaining the structure's painting.² Tower Properties is the registered owner of antenna structure #1029137. This structure is required to be painted pursuant to Federal Aviation Administration specifications, the structure's ASR, and FCC rules.³ On June 4 and July 1, 2002, the paint on the structure was obstructed by cables attached to the structure.

6. Based on the evidence before us, we find that Tower Properties, Inc. willfully⁴ and repeatedly⁵ violated Section 17.50 of the Commission's Rules by failing to maintain good visibility of its antenna structure.

7. Pursuant to Section 1.80(b)(4) of the Rules,⁶ the base forfeiture amount for failure to comply with prescribed lighting and marking is \$10,000. Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), requires us to take into account "...the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history or prior offenses, ability to pay, and other such matters as justice may require."⁷ Considering the entire record and applying the factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁸ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁹ Tower Properties of Florida Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful and repeated violation of Section 17.50 of the Rules by failing to maintain good visibility of the required antenna structure obstruction markings.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this *Notice of Apparent Liability*, Tower Properties of Florida, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or

² See 47 C.F.R. § 17.6(a).

³ See 47 C.F.R. §§ 17.21, 17.22, and 17.23.

⁴ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁵ The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

⁶ 47 C.F.R. § 1.80(b)(4).

⁷ 47 U.S.C. § 503(b)(2)(D).

⁸ 47 U.S.C. § 503(b).

⁹ 47 C.F.R. §§ 0.111, 0.311, 1.80.

cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced in the letterhead above.

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Requests for payment of the full amount of this *Notice of Apparent Liability* under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, SW, Washington, DC 20554.¹⁰

14. IT IS FURTHER ORDERED THAT a copy of this *Notice of Apparent Liability* shall be sent by regular mail and Certified Mail Return Receipt Requested to Tower Properties of Florida Inc., 4190 NW 93rd Avenue, Gainesville Florida 32653.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director – Tampa Office
Enforcement Bureau

¹⁰ See 47 C.F.R. § 1.1914.